APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
2628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
		10/003,092	OSTERMANN ET AL.
Office Action Summary		Examiner	Art Unit
		Roberta Prendergast	2628

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 October 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>34-36</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>34-36</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Examiner acknowledges the amendment to claim 35, filed 10/4/2007,

overcoming the rejection of claim 35 under *35 USC § 112, 2nd paragraph*. Therefore the

rejection of claim 35 under *35 USC § 112, 2nd paragraph* is hereby withdrawn.

Priority

Examiner acknowledges the amendment to the specification, filed 10/4/2007,

withdrawing the claim for the benefit of the prior-filed provisional application 60/245521

without prejudice or disclaimer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Gever et al. U.S. Patent No. 6329994 in view of H. Noot and Zs.M. Ruttkay,

"CharToon 2.0 Manual", Information Systems (INS), INS-R0004 January 31, 2000,

hereinafter H. Noot et al. and Herman et al. U.S. Patent No. 6075905.

Referring to claim 34, Gever et al., teaches a method of creating an animated

entity for delivering a multi-media message from a remote sender to a recipient, the

method comprising: receiving from the remote sender an image file having a portion

associated with an animated entity and a background portion (Fig. 17B-18B; column 3,

lines 50-67; column 4, lines 1-25, i.e. an animation having an animated entity and a

background image are stored by the user in an HTML file and then sent to the receiver

as an e-mail); and delivering a multimedia message comprising the background wherein

the animated entity speaks and moves in the context of the background, but does not

specifically teach receiving from the remote sender marked features on the image file

associated with the animated entity in the context of the background; and wherein as

the animated entity moves an extrapolation method fills voids between the animated

entity and the background.

H. Noot et al. teaches receiving from the remote sender marked features on the image file associated with the animated entity in the context of the background (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3, i.e. features are marked in an object file to be animated).

Herman et al. teaches wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background (column 14, lines 14-44, i.e. extrapolation is performed to fill voids at the image boundaries).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of Gever et al. with the teachings of H. Noot et al. and Herman et al. because providing marked features on the image file allows the facial expressions to be accurately modeled during animation and further providing a simple method for image domain extrapolation to handle gaps between a moving object and the background image.

Referring to claim 36, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches the method of claim 34 further comprising receiving a selection from the remote sender of one of a predefined set of animated entities for insertion in a position of the image file associated with the marked features of the image file and wherein delivering the multimedia message comprises presenting the background wherein the selected animated entity speaks and moves in the context of the background (Fig. 5, 7 and 17B; column 3, lines 50-67; column 4, lines 1-25, i.e. the

sender selects the identity of the animated object from a predefined list and inserts the

object into the background).

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et

al. in view of H. Noot et al. and Herman et al. as applied to claim 34 above, and further

in view of Salesin et al. U.S. Patent No. 5666475.

Referring to claim 35, the rationale for claim 34 is incorporated herein, Gever et

al., as modified above, teaches the method of claim 34 but does not specifically teach

prior to receiving from the remote sender marked features on the image file associated

with the animated entity, zooming the image file to allow the remote sender to more

accurately mark the image file associated with the animated entity.

Salesin et al. teaches this limitation (column 1, lines 40-61, i.e. the image is

zoomed prior to and/or during editing).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to combine the method of Gever et al. with the

teachings of H. Noot et al., Herman et al. and Salesin et al. thereby allowing the user to

zoom and edit potions of a multi-resolution image at an arbitrary size.

Response to Arguments

Applicant's arguments filed 10/4/2007 have been fully considered but they are not persuasive.

Applicant first argues that the cited prior references are not combinable because Gever et al. and Noot et al. relate to producing animated sequences on a graphical display whereas Herman et al. fails to teach anything regarding animation because their creating an image mosaic only involves still images and that blending the separate source images in Herman does not involve the concept of one image being in front of the other but involves blending all of the source images into the same plane.

Examiner respectfully submits that Noot et al. teaches wherein Face Player is used to show the effect of an animation by displaying animation frames at a given frame rate such that, while playing the movie, every animation frame is dumped as a .gif file, see page 35, section 4.1 Using Face Player, i.e. each .gif file is understood to be a still image such that displaying the animation requires the display of each of the .gif files at a given frame rate, and Herman et al. teaches wherein a mosaic image is generated from a set of source images such that the source images may include live images, images from various storage media, such as computer files, synthetically generated images, such as computer graphics, and processed images, such as previously constructed mosaic images, see column 4, lines 11-19 and 36-42, and further teaches wherein source images that do not cover the entire domain of the desired mosaic have regions around their boundaries that are filled using extrapolation such that source images are

combined in such a way that an object from one source image appears to be in front of

a background provided by the other source image, see Fig. 13 and column 6, lines 3-27.

Applicant next argues that it would not be obvious to combine Salesin et al. with

Gever et al. and Noot et al. because any additional editing to create an edited version of

an image as in Salesin would not be required where the original image is being

generated by a designer as would happen in Noot et al. and Gever et al.

Examiner respectfully submits that Noot et al. teaches altering a current

animation by the local or global editing operations such that the user may edit at any

level of zooming such that for refined editing the user would want to edit using a

maximum size (zoom in), see pages 42-43 section 6.2.4 Creating a new animation, and

Salesin et al. teaches wherein a user zooms into an image to present the image at a

higher level of detail to enable more accurate image editing, see column 3, lines 8-17

and column 10, lines 40-46, such that the user can do fine detail work (refined editing)

at high resolutions (zoom in). Thus combining Gever et al., Noot et al. and Herman et al.

with Salesin et al. would allow the user to perform fine detail work at a higher resolution

in order to enable the user to perform refined image editing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta Prendergast whose telephone number is (571) 272-7647. The examiner can normally be reached on M-F 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP 12/14/2007

ULKA CHAUHAN
SUPERVISORY PATENT EXAMINER